

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|---------------------------|---|-----------------------------|
| PETER DELANCE EMICK, | : | No.: 4:16-CV-01856 |
| | : | |
| Plaintiff, | : | (Judge Brann) |
| | : | |
| v. | : | (Magistrate Judge Saporito) |
| | : | |
| BOROUGH OF MONTOURSVILLE, | : | |
| <i>et al.</i> , | : | |
| Defendants. | : | |

ORDER

JUNE 5, 2017

Before the Court for disposition is a Report and Recommendation filed by Magistrate Judge Joseph F. Saporito, Jr. on May 12, 2017.¹ In this Report, Magistrate Judge Saporito recommended that (1) Defendants Borough of Montoursville, and City of Williamsport’s pending motions to dismiss be granted; (2) Plaintiff Peter Delance Emick’s complaint be dismissed for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6); and (3) the Clerk be directed to close this case.² No objections to this Report and Recommendation have since been filed.

Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and . . . submit to a judge of the court proposed findings of

¹ ECF No. 10.

² *Id.*

fact and recommendations.”³ Once filed, this Report and Recommendation is disseminated to the parties in the case who then have the opportunity to file written objections.⁴ Where no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”⁵ Nevertheless, whether timely objections are made or not, the district court may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge.⁶

Following independent review of the record, I am satisfied that the Report and Recommendation contains no clear facial error. In the interests of judicial economy, I will not rehash Magistrate Judge Saporito's sound reasoning and legal citation. The Court is in full agreement that Plaintiff Peter Delance Emick's Complaint has failed to state a claim pursuant to Fed. R. Civ. P. 12(b)(6) and should be dismissed in its entirety.

AND NOW, therefore, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Joseph F. Saporito, Jr.'s Report and Recommendation (ECF No. 10) is **ADOPTED IN ITS ENTIRETY**;

³ 28 U.S.C. 636(b)(1)(B).

⁴ 28 U.S.C. 636(b)(1).

⁵ *Rieder v. Apfel*, 115 F.Supp.2d 496, 499 (M.D.Pa. 2000) (citing *United States v. Raddatz*, 447 U.S. 667, 676 (1980)).

⁶ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

2. Defendants Borough of Montoursville and City of Williamsport's Motions to Dismiss (ECF Nos. 2 & 3) are **GRANTED**;
3. The Clerk of Courts is directed to close this case.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge